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Defense Procurement Fraud: Justice's Overall Management Can Be Enhanced

Statement of
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Before the
Committee on the Judiciary
United States Senate

GA 1.5/2:

JUSTICE'S OVERALL MANAGEMENT OF DEFENSE PROCUREMENT FRAUD CAN BE ENHANCED

SUMMARY OF STATEMENT BY
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In response to a congressional request from Senators Proxmire and Grassley, GAO reviewed Justice's overall management of its defense procurement fraud investigations. GAO found that Justice's overall management could be improved if it had basic oversight information on its decentralized operations. Justice needs to acquire the following information to improve its oversight of this high priority area.

-- Complete and timely information on the number and status of defense procurement fraud referrals and cases would enable management to better track the progress of investigations and identify problems.

-- Data on attorney resources being spent would enable management to monitor the amount of effort being devoted to this area.

-- Written plans and periodic updates of those plans that identify the activities of Justice headquarters and the U.S. attorney offices would allow comparison of planned with actual accomplishments.

-- A case weighting system to help distinguish the different prosecutive efforts required for different types of cases could help management assess and identify its resource needs.

GAO made several recommendations to the Attorney General designed to provide Justice with better information so that management can make more informed decisions regarding the allocation and use of scarce resources.

Mr. Chairman and Members of the Committee:

We are pleased to be here today to discuss the findings in our June 29, 1988, report entitled Defense Procurement Fraud: Justice's Overall Management Can Be Enhanced (GAO/GGD-88-96). Our review, which was requested by Senators Proxmire and Grassley, did not focus on specific cases or the current bribery investigation being handled by the U.S. Attorney in Alexandria, Virginia. It involved a broader look at Justice's strategy for coordinating and managing the defense procurement fraud effort among the 93 U.S. Attorneys and the Criminal Division's Defense Procurement Fraud Unit. In doing our work, we interviewed officials from Justice headquarters, seven U.S. attorney offices, and Department of Defense auditing and investigative agencies. We also reviewed work load and other statistical data from the agencies' various management information systems.

BACKGROUND

The Criminal Division at Justice headquarters and the U.S. attorney offices are responsible for the criminal prosecution of defense procurement fraud. The Criminal Division's Defense Procurement Fraud Unit, which was created in 1982 to focus Justice and DOD resources on defense procurement fraud, is supposed to initially receive and review for prosecutive merit all referrals submitted by investigative and auditing agencies involving significant instances of alleged defense procurement

fraud. The Unit has responsibility for some referrals and assists U.S. attorney offices with others. However, the U.S. attorneys, for the district where the alleged criminal acts occurred, handle most of the defense procurement fraud referrals that have prosecutive merit. Some of the larger U.S. attorney offices located in urban centers have specialized sections which handle or monitor the prosecution of white-collar crime cases, including defense procurement fraud, within their district.

The investigation of defense procurement fraud schemes is often a lengthy process taking several years before a decision is made on whether to prosecute or not prosecute a case. According to Justice headquarters and U.S. attorney office officials we interviewed, defense procurement fraud cases such as those involving complex cost/labor mischarging and defective pricing schemes are time consuming and difficult to prosecute criminally for the following reasons:

-- Procurement regulations which govern the defense contracting process are voluminous, complex, and sometimes ambiguous.

-- Auditors, investigators, and attorneys must review and analyze voluminous accounting and performance data to determine if fraudulent acts occurred.

-- Defense contractors "out gun" government attorneys with vast legal and accounting resources to defend defense procurement fraud allegations.

-- Investigators and attorneys have difficulty in obtaining information surrounding the alleged fraudulent activity because of the length and complexity of the investigations.

LACK OF COMPLETE AND TIMELY DATA ON CASE STATUS

Since 1982, Justice headquarters has been attempting to capture some basic information for all of its fraud investigations and prosecutions through its Fraud and Corruption Tracking System. However, this system does not contain information on all defense procurement fraud referrals because Justice officials said the investigative agencies do not always submit the forms needed to enter a referral into the system. The extent of underreporting is not known.

Neither does the system contain current information on the status of a significant portion of the referrals. This is primarily because Justice attorneys do not always report the disposition of the referrals. For example, as of September 1987, Justice attorneys had not reported whether they had accepted or declined

286 (about 42 percent) of the 680 defense procurement fraud and related referrals sent to their offices between October 1, 1983, and May 31, 1987. Most of these referrals had been with Justice for a year or more. U.S. attorney office officials said that the administrative burden associated with completing the required forms, and questionable benefits to their organizations, were the primary reasons that the information was not always submitted.

RESOURCES DEVOTED TO PROSECUTING DEFENSE PROCUREMENT FRAUD NOT KNOWN

Justice officials told us that turnover among attorney and/or support staff has adversely affected their prosecutive efforts. Officials from Justice and the seven U.S. attorney offices also said they need more attorneys and/or support staff to handle defense procurement fraud cases.

Our review showed that Justice does not know how many attorneys are being used for defense procurement fraud investigations and prosecutions because the Criminal Division and U.S. attorney offices are not required to gather this information. Such information would enable Justice to better monitor the amount of effort being devoted to this priority area and compare resources expended to results achieved.

We believe a case weighting system that distinguishes between the amount of prosecutive effort needed for different kinds of cases would be one useful tool for helping assess resource needs.

LACK OF MANAGEMENT PLANS FOR DEFENSE PROCUREMENT FRAUD

One of the Attorney General's management initiatives is the development of strategic/long-range plans to assess the implementation and accomplishment of his priorities. In January 1988, the Attorney General imposed a written planning requirement for Justice's Organized Crime Strike Forces. While defense procurement fraud has been a top white-collar crime priority of Justice, the Criminal Division and the U.S. attorney offices responsible for the prosecution of defense procurement fraud have not prepared written management plans outlining their current and future efforts. We believe that if such plans were developed and updated periodically, Justice could better assess progress and problems in this top priority area. The plans should include, at a minimum, information on (1) the current and anticipated work load and strategies and priorities for handling it, (2) attorney resources being devoted and needed, and (3) objectives to be accomplished and milestones for accomplishing them.

In developing the management plans, each of the components should be asked to address what special problems or issues are affecting their efforts to successfully prosecute the complex defense procurement fraud cases involving cost/labor mischarging and defective pricing and whether different strategies are needed for such cases.

In December 1987, Senate Bill S.1958, the Government Fraud Law Enforcement Act of 1987, was referred to this Committee. The bill would require the Attorney General to establish regional fraud units around the country and authorize additional resources for these units. Under the bill, the units would be under the direction of the Assistant Attorney General for the Criminal Division. The purpose of the proposed legislation is to provide an organizational framework for concentrating investigative/ prosecutive resources and coordinating Justice efforts to combat fraud in government procurement and programs.

Generally, the Justice Criminal Division officials we interviewed as part of our work supported the bill. U.S. attorney office officials in all seven offices where we did our work opposed it because they did not believe dedicated fraud units separate from their offices would work. Regardless of the organizational approach used to investigate and prosecute government fraud, we believe the Department of Justice needs basic information on case

status, resources devoted, and management plans to oversee policy development and implementation in this high priority area.

This concludes my prepared statement. I would be pleased to answer any questions you have.